

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
COURT FILE NO.: 0:16-cv-01220-JRT-FLN**

BENJAMIN HUDOCK, BREANN
HUDOCK, and GERALD DELOSS,
individually and on behalf of all others
similarly situated,

Plaintiffs,

v.

LG ELECTRONICS U.S.A., INC.; BEST
BUY CO., INC.; BEST BUY STORES,
L.P.; and BESTBUY.COM, LLC,

Defendants.

**MEMORANDUM OF LAW IN
SUPPORT OF BEST BUY CO., INC.,
BEST BUY STORES, L.P., AND
BESTBUY.COM, LLC'S PARTIAL
MOTION TO DISMISS FIRST
AMENDED CLASS ACTION
COMPLAINT**

In their First Amended Complaint (“Amended Complaint”), Plaintiffs Benjamin and Breann Hudock (the “Hudock Plaintiffs”) once again fail to state a claim under the New Jersey Consumer Fraud Act (“NJCFA”): they have still failed to plead a real and quantifiable ascertainable loss. The Hudock Plaintiffs do not allege the cost of any comparable 60Hz televisions available on November 29, 2013 for less than what they paid (\$499.99). In addition, the Hudock Plaintiffs now admit that they purchased their television at a deep discount, paying only \$499.99 during a Black Friday sale. They have not alleged an ascertainable loss having paid this price. Accordingly, the Hudock Plaintiffs’ NJCFA claim should be dismissed pursuant to Federal Rule of Civil Procedure 12(b)(6).

These arguments are set forth in detail in Argument I (“Plaintiffs Have Again Failed to Plead An Ascertainable Loss Sufficient to Sustain an NJCFA Claim”) of the partial motion to dismiss concurrently-filed by LG Electronics, USA, Inc. The Best Buy Defendants join in this portion of LG’s motion in its entirety,¹ and request dismissal for all the same reasons as LG.

Dated: June 5, 2017

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¹ The Best Buy Defendants do not join in the portion of LG’s motion relating to claims brought by the new named plaintiff, Gerald DeLoss, because no claims have been asserted against the Best Buy Defendants by Plaintiff DeLoss.